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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,718	05/23/2001	Rick Korczak	47176-00693USP1	1494

7590

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EXAMINER

BAXTER, GWENDOLYN WRENN

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/863,718

Applicant(s)

KORCZAK ET AL.

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33 is/are allowed.
- 6) ☒ Claim(s) 1-32, 34-42, 44-48, 50-54, 56-58 and 60-72 is/are rejected.
- 7) ☒ Claim(s) 43, 49, 55 and 59 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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This is the first office action for serial number 09/863,718, Stackable Transmission Line Hanger, filed on May 23, 2001. This application is a Continuation-In-Part of 09/430,496, October 29, 1999 now Patent 6,354,543 which is a Continuation-In-Part of 09/229,843, January 12, 1999.

***Information Disclosure Statement***

The information disclosure statement filed August 13, 2001 and July 11, 2002 have been placed in the application file, and the information referred to therein has been considered.

***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: brace.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 40-42, 44-46, 51, and 62-64 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,612,509 to Market. The present invention reads on Market as follows: Market teaches a stackable hanger having a U-shaped body (6) with arms (42) gripping the line (18). The distal ends of the arms being structured to snap lock (32,36) onto a line support. The hanger has a snap-in stacking provision. The snap-in stacking provision comprises an opening (38). The opening is an aperture with a curved boundary. A second stackable snap-in line hanger snap-locked onto the stacking provision. The distal ends of the arms are adapted to snap lock into an opening and wherein the stacking provision comprising an opening (not shown). Each barb has an edge-engaging surface which is serrated or notched (36).

Claims 66-70 and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by EP Patent No. 0,183,394 to Juds. The present invention reads on Juds as follows: Juds teaches a hanger (10) comprising a generally U-shaped body (25,26) with side members which grip the elongated article (15). The distal ends of body is structured to lock into an opening in a support structure (20). The distal ends each being structured to engage a back peripheral surface around the opening. Each distal end has at least one substantially straight outwardly angled stand off tab (37) which engages a front peripheral surface of the support structure at a distance from the opening. Each of the members has two tabs (35). The tab has a stiffening provision (the curved shape of the tab) which makes line engagement with the surface. The U-shaped body has a retention section (25) adapted to engage the article (15) from which section extends a pair of legs (31). The legs each have between the retention section and the distal end an extension section

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(33) which substantially increases the length of the leg. Each of the spring fingers (28) is substantially S-shaped.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 47, 48, 50, 52-54 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Market. Market discloses the limitations of the base claim, excluding the distal ends of the arms and the stacking provision are structured such that the wind induced vibrations of the held lines is damped. The hanger is formed of an insulative polyethylene and plastic materials (column 5, lines 34+) which would inherently absorb vibrations seen by the hanger due to external forces.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-13, 16-19, 24-32, 34-39 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-38 of U.S. Patent No. 6,354,543 to Paske. Although the conflicting claims are not identical, they are not patentably distinct from each other because a reading of the instant claim clearly indicate that the subject matter thereof is fully disclosed by the claims of Paske '543. Clearly, Paske '543 teaches the limitations of the claims, including the unitary line hanger comprising the line retention section and the mounting section are arranged to dampen line vibration since the hanger is disclosed to be resilient in nature such that the legs are able to be compressed and expanded from each other by a spring force. As a result of the resiliency, the hanger inherently dampens the vibration that may be seen therein. See claims 1 and 7. However, Paske '543 fails to claim a second notch and the mounting opening being circular. It would have been obvious to one having ordinary skill in the art at the time the invention was made to a second notch, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Additionally, it would have been an obvious matter of design choice to have the mounting openings, since such a modification would have involved a mere change in the shape of a component. A change in shape is generally recognized as being

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within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Claims 14 and 15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-38 of U.S. Patent No. 6,546,543 to Paske in view of EP 0,183,394A3 to Juds. Although the conflicting claims are not identical, they are not patentably distinct from each other because a reading of the instant claim clearly indicate that the subject matter thereof is fully disclosed by the claims of Paske. However, Paske fails to claim the first and second legs and the first and second spring fingers include a first and second curved members, respectively. Juds teaches a line hanger comprising a curved first and second legs (25) and the first and second curved spring fingers (28) curved members. It is would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the legs and fingers as taught by Paske to have incorporated the convex-concave shape as taught by Juds for the purpose of accommodating the line the be retained therein.

Claims 20-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-38 of U.S. Patent No. 6,354,543 to Paske in view of U.S. Patent No. 5,108,055 to Kreinberg et al. Paske claims the limitations of the present invention, including the stop extending inwardly from the first and second legs. However, Paske fails to claim the stop arms extend downwardly to engage a top of the attachment surface. Kreinberg teaches a hanger comprising a stop (62, 66, 64) where the arms extend downwardly and including a concave curvature of the line. It would have been obvious to one having ordinary

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skill in the art at the time the invention was made to have modified the stop as taught by Paske to have incorporated the concavity and downward arm as taught by Kreinberg for the purpose of clamping the line therein.

Claims 57, 58, 60, 61 and 65 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-38 of U.S. Patent No. 6,354,543 to Paske in view of U.S. Patent No. 4,840,584 to Cox. Paske claims the limitations of the present invention, excluding the arm having an outwardly extending brace which abuts an opposite surface of the edge from that engaged by a barb. Cox teaches barbs (32) having a brace (14) which engages the line support (22). The brace being rigid and structured to dig into the opposite surface (col. 2, lines 58+ and lines 66+). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the barb as claimed by Paske to have incorporated the brace as taught by Cox for the purpose of securing the device to be mounted on the support.

Claim 71 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-40 of U.S. Patent No. 6,161,804 to Paske. Paske claims the limitations of the present invention, namely the U-shaped body having a retentions section, a pair of legs wherein the distal end of which structured to lock into an opening in a support structure. The legs each having between the retention section and the distal end an intermediate section from which is formed in a direction from the distal end toward the retention section an integral spring finger. The spring finger being deflected inwardly from the intermediate



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section so as to engage and support an article residing in the retention section. A resiliency in the spring finger being adapted to accommodate articles of different diameters.

***Allowable Subject Matter***

Claims 33, 43, 49, 55 and 59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 33 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the locking barb having a folded over rib, the aperture having a stiffening flange; or the brace having an in turned side with a distal edge which engages the opposite surface wherein the out-turned and in turned side of the brace stiffening the brace and widening its footprint on the opposite surface.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ferguson 4,175,728; Tsai 6,257,530; and Ferril 6,443,402 teach line hangers.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is (703) 308-0702. The

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examiner can normally be reached Monday-Friday from 8:30 A.M. to 5:00 P.M. Eastern Time Zone.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703) 305-3597.

GB  
September 27, 2002

  
**GWENDOLYN BAXTER**  
**PATENT EXAMINER**  
*Art Unit 3632*